IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 3-8-2007

Coram

The Honourable Mr.Justice N.PAUL VASANTHAKUMAR

C.M.A.No.1899 of 2000
and
C.M.A.No.710 of 2003

C.M.A.No.1899 of 2000

H. Dawood ... Appellant/Applicant

Vs.

1. L. Thangarajan

2. United India Insurance Co.Ltd.,
Third Party Claim Cell,
38, Anna Salai,
Chennai - 600 002. ... Respondents/ Opposite Parties

C.M.A.No.1899 of 2000 is preferred against the order dated 14.9.1999 made in W.C.No.26 of 1999 by the Commissioner for Workmen Compensation-I, (Dy Commissioner of Labour I) Chennai-6.

For Appellant : Mr.A.Shanmugharaj

For 1st Respondent : No appearance

For 2nd Respondent : Mr.K.S.Narasimhan

C.M.A.No.710 of 2003

1. V. Kannan

2. Vannamayil ... Appellants

Vs.

1. The Chairman,
TNEB, Chennai - 2.

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2. The Assistant Engineer,
TNEB, O&M Ambattur,
(South) CEDC/West,
Chennai - 53.

3. Balakrishnan & M.Lakshmi

4. M.Ekappan ... Respondents

C.M.A.No.710 of 2003 is preferred against the order dated 10.5.2002 made in W.C.No.248 of 1999 on the file of the Commissioner of Workmen Compensation (Deputy Commissioner for Labour-II) Chennai.

For Appellant : Mr.K.V.Ananthakrishnan

For Respondents : No appearance

COMMON JUDGMENT

These appeals are filed against the orders of the Deputy Commissioner of Labour-II, Chennai, in W.C.No.26 of 1999 on 14.9.1999 and in W.C.No.248 of 1999 on 10.5.2002 respectively.

2. The Claimants in the respective case filed the appeals only in respect of denial of interest for the amount of compensation awarded. In C.M.A.No.1899 of 2000 (W.C.No.26 of 1999), the authority passed an award of Rs.95,744/- and in C.M.A.No.710 of 2003 (W.C.No.248 of 1999) the award amount is Rs.2,09,920/-.

3. In both these appeals, the common substantial question of law raised by the appellants/claimants is that the authority failed to award interest from the date of accident as against the statutory provision contained in section 4A of the Workmen Compensation Act, 1923.

4. The learned counsel appearing for the respective appellants argued that the claim of the appellants having been upheld and the compensation having been awarded, interest should have been ordered from the date of the claim petition. The learned counsels also cited the following decisions in support of their contention:

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(a) 1976-I LLJ 235 (Pratap Narain Singh Deo v. Sriniwas Sabata and another)
(b) AIR 1997 SC 3854 (Ved Prakash Garg v. Premi Devi and others)
(c) (1998) 9 SCC 134 (Maghar Singh v. Jashwant Singh)
(d) Division Bench decision of this Court reported in 2002 (4) CTC 469
(The Oriental Insurance Co. Ltd., Pondicherry v. Kaliya Pillai and 2 others)

5. The learned counsel appearing for the respondent in C.M.A.No.1899 of 2000 submitted that the appellants are not entitled to raise the issue of payment of interest from the date of the claim petition as the matter in issue is already settled in the decision of the Supreme Court reported in (2007) 2 SCC 349 (National Insurance Co Ltd v. Mubasir Ahmed and another) and the said decision is binding on this Court.

6. I have considered the rival submissions made by the learned counsel appearing for the respective appellants as well as respondents.

7. The point in issue is whether the appellants are entitled to claim interest from the date of the claim petition or only after expiry of 30 days from the date of determination of compensation amount.

8. In (2007) 2 SCC 349 (National Insurance Co Ltd v. Mubasir Ahmed and another) the Apex Court considered similar issue and in paragraph 9 held thus,

> "9. Interest is payable under Section 4-A (3) if there is default in paying the compensation due under this Act within one month from the date it fell due. The question of liability under Section 4-A was dealt with by this Court in Maghar Singh v. Jashwant Singh ((1998) 9 SCC 134). By amending Act 30 of 1995, Section 4-A of the Act was amended, inter alia, fixing the minimum rate of interest to be simple interest @ 12%. In the instant case, the accident took place after the amendment and, therefore, the rate of 12% as fixed by the High Court cannot be faulted. But the period as fixed by it is wrong. The starting point is on completion of one month from the date on which it fell due. Obviously it cannot be the date of accident. Since no

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> indication is there as to when it becomes due, it has to be taken to be the date of adjudication of the claim. This appears to be so because Section 4-A(1) prescribes that compensation under Section 4 shall be paid as soon as it falls due. The compensation becomes due on the basis of adjudication of the claim made. The adjudication under Section 4 in some cases involves the assessment of loss of earning capacity by a qualified medical practitioner. Unless adjudication is done, question of compensation becoming due does not arise. The position becomes clearer on a reading of sub-section (2) of Section 4-A. It provides that provisional payment to the extent of admitted liability has to be made when employer does not accept the liability for compensation to the extent claimed. The crucial expression is "falls due". Significantly, legislature has not used the expression "from the date of accident". Unless there is an adjudication, the question of an amount falling due does not arise."
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> (Emphasis supplied)

In view of the above categorical pronouncement of the Apex Court, the contention raised by the appellants to award interest from the date of claim petition cannot be sustained.

9. In this respect, the following decisions of the Supreme Court can be usefully referred to in the light of the submission of the learned counsel for the appellants citing various decisions referred above.

(a) In the decision reported in (2002) 2 SCC 420 (Suganthi Suresh Kumar v. Jagdeeshan) in paragraph 9 it is held as follows:

> "9. It is impermissible for the High Court to overrule the decision of the Apex Court on the ground that the Supreme Court laid down the legal position without considering any other point. It is not only a matter of discipline for the High Courts in India, it is the mandate of the Constitution as provided in Article 141 that the law declared by the Supreme Court shall be binding on all courts within the territory of India. It was pointed out by this Court in Anil Kumar Neotia v. Union of India ((1988) 2 SCC 587 =

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AIR 1988 SC 1353) that the High Court cannot question the correctness of the decision of the Supreme Court even though the point sought before the High Court was not considered by the Supreme Court."

(b) In (2006) 6 SCC 522 (Rapti Commission Agency v. State of U.P.) (para 7), the Supreme Court held that the judgments of the Supreme Court are bound to be followed under Article 141 of the Constitution of India.

(c) In a recent decision reported in 2007 AIR SCW 2655 (Palitana Sugar Mills Pvt. Ltd. & Another v. Smt.Vilasiniben Ramachandran & Others) in paragraph 12 the Supreme Court held thus,

"12. It is well settled that the judgments of this Court are binding on all the authorities under Article 142 of the Constitution and it is not open to any authority to ignore a binding judgment of this Court on the ground that the full facts had not been placed before this Court and/or the judgment of this Court in the earlier proceedings had only collaterally or incidentally decided the issues raised in the showcause notices. Such an attempt is to belittle the issues and the orders of this Court. We are pained to say that the then Deputy Collector has scant respect for the orders passed by the Apex Court."

10. In view of the settled position of law as held by the Supreme Court in the decision reported in (2007) 2 SCC 349 (cited supra), the appellants are not entitled to get interest from the date of claim petition and they are entitled to get interest only after expiry of 30 days from the date of determination of compensation amount.

There is no merit in the civil miscellaneous appeals and the same are dismissed. No costs.

vr

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Commissioner of Workmen Compensation II,
(Deputy Commissioner of Labour-II), Chennai.

2. The Commissioner of Workmen Compensation I,
(Deputy Commissioner of Labour I), Chennai.

3. The Section Officer, VR Section, High Court,
Madras.

+ 1 cc to Mr. K. S. Narasimhan, Advocate, SR No.48715

+ 1 cc to Mr. A. Shanmugaraj, Advocate, SR No.48488

+ 1 cc to Mr. K. V. Anmantha Krishnan, Advocate SR No. 48605

BS(CO)
SR/29.8.2007 Judgment in

C.M.A.No.1899 of 2000
& 710 of 2003

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